

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

* * * * *

United States of America,

vs.

ARRAIGNMENT ORDER FOR
DURING PERIOD OF COVID-19
RELATED GENERAL ORDERS¹

Daniel James Fairbanks,

Defendant.

Criminal No. 20-cr-85 (ECT/LIB)

* * * * *

A Hearing was held before the undersigned United States Magistrate Judge on **June 25, 2020**. Defendant was present with his attorney, **Steven J. Wright**, CJA. The Government was represented by **Jordan L. Sing**, Assistant United States Attorney.

Defendant identified himself by name and birth date; waived the reading of the Indictment; and entered a plea of not guilty.

Pursuant to Local Rule 12.1 (copy attached), IT IS HEREBY ORDERED that:

1. The Government must make all disclosures required by Federal Rule of Criminal Procedure 16(a) by **July 2, 2020**. D. Minn. LR 12.1(a)(1). In order to avoid the need for a recess of the Motions Hearing, the Government is requested to make, by **July 2, 2020**, all disclosures which will be required by Fed. R. Crim. P. 26.2 and 12(h).

2. Defendant must make all disclosures required by Federal Rule of Criminal Procedure 16(b) by **July 9, 2020**. D. Minn. LR 12.1(a)(2).

¹ <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>; "Coronavirus (COVID-19) Guidance"

3. All Motions in the above-entitled case must be filed and served through CM/ECF consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **July 16, 2020**¹.

D. Minn. LR 12.1(c). No courtesy copies of motions and responses need be delivered to the chambers of Magistrate Judge Leo I. Brisbois at the present time.

4. **Counsel must electronically file a letter on or before July 16, 2020 if no Motions will be filed and there is no need for Hearing.**

5. All Responses to Motions must be filed by **July 30, 2020**. D. Minn. LR 12.1(c)(2).

6. Any Notice of Intent to call Witnesses² must be filed by **July 30, 2020**. D. Minn. LR. 12.1(c)(3)A).

7. Any Responsive Notice of Intent to Call Witnesses³ must be filed by **August 3, 2020**.

8. A Motions Hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The Government makes timely disclosures and Defendant identifies in the motions particularized matters for which an evidentiary hearing is necessary; or

¹“Before filing a motion under Fed. R. Crim. P. 12(b), the moving party must confer with the responding party. The parties must attempt in good faith to clarify and narrow the issues in dispute.” D. Minn. LR 12.1(b).

²“When a party intends to call witnesses at a hearing on a motion under Fed. R. Crim. P. 12(b), the party must file a notice within 35 days after the arraignment. The notice must identify the number of witnesses whom the party intends to call, the motion or motions that each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(A).

³“If after reviewing a notice under LR 12(c)3), a party intends to call witnesses at the same hearing, that party must file a responsive notice within 38 days after the arraignment. The responsive party must identify the number of witnesses whom the party intends to call, the motion or motions each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(B).

- b. Oral argument is requested by either party in its Motion, objection or response pleadings. **If Defendant requests a motions hearing, through counsel, they shall file and serve through CM/ECF a written consent to motions being heard via video conference no later than July 16, 2020.**

9. If required, the Motions Hearing will be conducted before United States Magistrate Judge Leo I. Brisbois on **August 6, 2020 at 9:00 a.m.**, provided video conference facilities are available then, and the Defendant has previously consented as per paragraph 8.b., above.⁴

10. **TRIAL:**

Counsel should submit two (2) hard copies of Trial Briefs, Voir Dire, proposed Jury Instructions, exhibit and witness lists, and Trial-related Motions (including Motions-in-Limine) to District Judge Eric C. Tostrud's Chambers on or before: **to be determined**. In addition, counsel should email the proposed Jury Instructions and exhibit and witness lists to tostrud_chambers@mnd.uscourts.gov.

Judge Tostrud will hold a Final Pretrial Conference on: **to be determined**, in Courtroom 3B, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert St., St. Paul, Minnesota.

Trial will commence before District Judge Eric C. Tostrud on: **to be determined, in Courtroom 3B, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert St., St. Paul, Minnesota.**

⁴ If the Defendant does not consent to the motions hearing being conducted via video conference, then a telephone status conference will be conducted at this date and time on the record with the Defendant, Defendant's counsel, the Government's counsel, and the Court on the call for the sole purpose of making a record as to the lack of consent.

b. **IF PRETRIAL MOTIONS ARE FILED**, the trial date, and other related dates, will be rescheduled following the ruling on Pretrial Motions. Counsel must contact the Courtroom Deputy for District Judge Eric C. Tostrud to confirm the new trial date.

BY THE COURT:

DATED: June 25, 2020

s/David T. Schultz
David T. Schultz
U.S. MAGISTRATE JUDGE